

1 Cabinet for Health and Family Services

2 Office of Health Policy

3 (Amendment)

4 900 KAR 6:020. Certificate of need application fee schedule.

5 RELATES TO: KRS 216B.040(3)(c)

6 STATUTORY AUTHORITY: KRS 216B.040(3)(c)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(3)(c) authorizes
8 the Cabinet for Health and Family Services to establish, by administrative regulation,
9 reasonable application fees for certificates of need. This administrative regulation
10 establishes the fee schedule for certificate of need applications.

11 Section 1. (1) Certificate of need applications which are submitted by an existing
12 licensed healthcare facility or service that has met the emergency circumstances
13 provision as provided in 900 KAR 6:080 and has received notice from the Office of
14 Health Policy that an emergency exists, shall be assessed an application fee of \$100.

15 (2) [(4)] Certificate of need applications not proposing a capital expenditure or
16 proposing a capital expenditure of up to \$200,000 shall be assessed an application fee
17 of \$1,000.

18 (3) [(2)] Certificate of need applications which propose a capital expenditure
19 greater than \$200,000 up to \$5,000,000 shall be assessed an application fee of five-
20 tenths (.5) percent of the capital expenditure and shall be computed to the nearest
21 dollar.

1 (4) [(3)] Certificate of need applications which propose a capital expenditure
2 greater than \$5,000,000 shall be assessed an application fee of \$25,000.

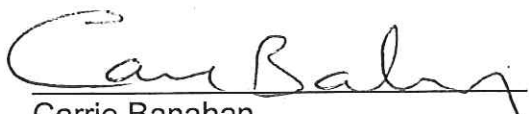
3 (5) Certificate of need applications which propose to expand their existing
4 diagnostic cardiac catheterization service to also provide primary (i.e. emergency)
5 Percutaneous Coronary Intervention (PCI) services on a two (2) year trial basis or to
6 provide comprehensive (diagnostic and therapeutic) cardiac catheterization services on
7 a two (2) year trial basis shall be assessed an additional application fee of \$10,000.

8 Section 2. Application fees shall be submitted with the application. Applications
9 shall not be deemed complete until the application fee has been paid. Application fees
10 shall be refunded only if notice of withdrawal of the application is received by the
11 cabinet within five (5) working days of the date the application is received by the
12 Cabinet for Health and Family Services. Application fees submitted pursuant to Section
13 1(5) of this administrative regulation shall be refunded if the certificate of need
14 application is denied and all administrative remedies provided
15 for in KRS 216B.085 are exhausted.

900 KAR 6:020

This is to certify that the Executive Director of the Office of Health Policy has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070(4)

APPROVED:



Carrie Banahan
Executive Director
Office of Health Policy

4/15/10
Date

APPROVED:



Janie Miller
Secretary
Cabinet for Health and Family Services

4/15/10
Date

A public hearing on this administrative regulation shall, if requested, be held on May 21, 2010, at 9:00 a.m. in the Public Health Auditorium located on the First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 14, 2010, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business June 1, 2010. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, (502) 564-7905, Fax: (502) 564-7573

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 900 KAR 6:020

Contact Person: Carrie Banahan or Shane O'Donley, 564-9592

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees for certificate of need applications by the cabinet pursuant to KRS 216B.040(3)(c).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statute, KRS 216B.040(3)(c).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content KRS 216B.040(3)(c) by establishing the fees entities must pay to submit a certificate of need application to the cabinet.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of KRS 216B.040(3)(c) by establishing the fee schedule necessary for entities to submit certificate of need applications.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: By amending this administrative regulation entities wishing to file a certificate of need that meets the emergency circumstances provision provided in 900 KAR 6:080 shall be assessed an application fee of \$100 rather than \$1,000. Entities that wish to file a certificate of need to establish an adult therapeutic cardiac catheterization service shall be assessed an additional application fee of \$10,000. However, the \$10,000 fee shall be refunded if the certificate of need application is denied and all administrative remedies are exhausted.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to decrease the application fee for emergency circumstance applications and to establish a fee for establishment of therapeutic cardiac catheterization service applications.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by providing a fee schedule for entities wishing to file a certificate of need application.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by providing a fee schedule for entities wishing to file a certificate of need application.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects an entity wishing to file a certificate of need application using the emergency circumstance provision or an application to establish an adult therapeutic

cardiac catheterization service. Between January 1, 2009 and December 31, 2009, less than 10 entities filed a certificate of need application using the emergency circumstance provision. We anticipate that less than 10 entities will file an application to establish an adult therapeutic cardiac catheterization service.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will submit an application fee with their application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): For those entities filing an application using the emergency provisions, the cost will be reduced from \$1,000 to \$100. For those entities filing an application to establish an adult therapeutic cardiac catheterization service there shall be an additional fee of \$10,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3) Those entities filing an application using the emergency provision shall see a decrease in the amount of their fee. Entities, not previously able to do so, may now file an application to establish an adult therapeutic cardiac catheterization services with an additional fee submission.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be from Office of Health Policy's existing budget and an increase in the amount of application fees received on behalf of CON applications to expand an existing diagnostic cardiac catheterization program to include adult therapeutic cardiac catheterization services will be used to select and reimburse an outside expert consultant who shall be tasked with reviewing and verifying the quality of the applicant's cardiac catheterization program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: This regulation amendment will provide for an increase in CON application fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes an additional \$10,000 CON application fee for entities wishing to expand an existing diagnostic cardiac catheterization program to include adult therapeutic cardiac

catheterization services and reduces the CON application fee for emergency circumstances from \$1,000 to \$100.

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 900 KAR 6:020

Contact Person: Carrie Banahan or
Shane O'Donley

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects the Office of Health Policy within the Cabinet for Health and Family Services.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(3)(c).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is estimated that the amendment to this administrative regulation will generate less than \$100,000 in the first year in additional revenue. However, this revenue will be used to select and reimburse an outside expert consultant who shall be tasked with reviewing and verifying the quality of the applicant's cardiac catheterization program.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? It is estimated that the amendment to this administrative regulation will generate less than \$100,000 per year in additional revenue. However, this revenue will be used to select and reimburse an outside expert consultant who shall be tasked with reviewing and verifying the quality of the applicant's cardiac catheterization program.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this amendment.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this amendment on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): less than \$100,000

Expenditures (+/-): less than \$100,000

Other Explanation: Revenues are estimated based on less than 10 applications per year. Fees will be used to offset expenditures.